

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In re:

LTL MANAGEMENT LLC,¹

Debtor.

Chapter 11

Case No.: 23-12825 (MBK)

Judge: Michael B. Kaplan

¹ The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

**NOTICE OF MOTION OF THE AD HOC COMMITTEE OF
SUPPORTING COUNSEL TO FILE UNDER SEAL AND REDACT
CERTAIN INFORMATION IN RESPONSE OF AD HOC COMMITTEE OF
SUPPORTING COUNSEL TO REPLIES IN SUPPORT OF MOTIONS TO DISMISS**

PLEASE TAKE NOTICE that the Ad Hoc Committee of Supporting Counsel (the “AHC of Supporting Counsel”), by and through its counsel, will move, on an expedited basis, before the Honorable Michael B. Kaplan, Chief United States Bankruptcy Judge, in Courtroom #8 of the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), 402 East State Street, Trenton, New Jersey 08608, pursuant to 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018 and D.N.J. LBR 9018-1 (the “Motion”) for (i) authority to file under seal the redacted portions of the *Omnibus Response of Ad Hoc Committee of Supporting Counsel to Replies in Support of Motions to Dismiss* (the “Response”), filed substantially contemporaneously herewith, and (ii) granting the AHC of Supporting Counsel such other and further relief as the Court deems necessary and appropriate and consistent with the terms of this Motion.

PLEASE TAKE FURTHER NOTICE that the Motion sets forth the relevant factual bases upon which the relief requested should be granted. A proposed Order granting the relief requested in the Motion is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that, substantially contemporaneously with the filing of this Motion, the AHC of Supporting Counsel has filed an Application for Order Shortening Time and Certain Other Relief (the “Application”) requesting that the hearing on the Motion be scheduled for June 27, 2023.

PLEASE TAKE FURTHER NOTICE that the order entered with respect to the Application will, among other things, specify the date and time of the hearing on the Motion.

PLEASE TAKE FURTHER NOTICE that all objections, if any, must be made accordance with the Court's order entered with respect to the Application. If the order entered with respect to the Application directs that written objections be filed, then in accordance with D.N.J. LBR 9013-2(a)(2), written objections shall be filed with the Clerk of the United States Bankruptcy Court, for the District of New Jersey, Courthouse, 402 East State Street, Trenton, New Jersey 08608, and a copy thereof must simultaneously be served upon (a) the Debtor's counsel, (b) counsel to the Official Committee of Talc Claimants, (c) the legal representative for future talc claimants and her counsel, (d) counsel to the Ad Hoc Committee of Supporting Counsel, (e) the Office of the United States Trustee for the District of New Jersey and (f) the other parties on the Master Service List established by the Case Management Order so they are received by the deadline set forth in the Court's order entered with respect to the Application

PLEASE TAKE FURTHER NOTICE that only those responses or objections that are timely filed, served, and received will be considered at the Hearing. Failure to file a timely objection may result in entry of a final order granting the Motion as requested by the AHC of Supporting Counsel.

PLEASE TAKE FURTHER NOTICE that unless responses are timely filed and served, the Motion shall be decided on the papers in accordance with D.N.J. LBR 9013-3(d), and the relief requested may be granted without further notice or hearing.

Dated: June 26, 2023

COLE SCHOTZ P.C.

/s/ Michael D. Sirota

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¹ The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

**MOTION OF THE AD HOC COMMITTEE OF
SUPPORTING COUNSEL TO FILE UNDER SEAL AND REDACT
CERTAIN INFORMATION IN RESPONSE OF AD HOC COMMITTEE OF
SUPPORTING COUNSEL TO REPLIES IN SUPPORT OF MOTIONS TO DISMISS**

The Ad Hoc Committee of Supporting Counsel (the “**AHC of Supporting Counsel**”), by and through its counsel, Paul Hastings LLP, Cole Schotz P.C., and Parkins & Rubio LLP, hereby moves (the “**Motion**”) for entry of an order, pursuant to sections 105(a) and 107 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9018-1 of the Local Rules of the United States Bankruptcy Court, District of New Jersey (the “**Local Rules**”), substantially in the form attached hereto as Exhibit A, authorizing the AHC of Supporting Counsel to file under seal its *Omnibus Response of Ad Hoc Committee of Supporting Counsel to Replies in Support of Motions to Dismiss* (the “**Response**”)² and to file a redacted version of the Response that will be publicly available.³ In support of this Motion, the AHC of Supporting Counsel respectfully states as follows:

PRELIMINARY STATEMENT

1. The redacted portions of the Response include information contained in (i) the Birnbaum Report, (ii) excerpts of the transcript of the deposition of Mikal C. Watts taken on June 12, 2023, in connection with this matter, (iii) the Bell Report, (iv) the Mullin Report, and (v) the Rave Report (collectively, the “Confidential Documents”). Each of the Confidential Documents have been designated as confidential under the Confidentiality Order (defined below) by one or

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Response.

³ A redacted version of the Response has been filed immediately prior to the filing of this Motion. An unredacted version of the Response is being filed immediately after the filing of this Motion in accordance with this Court’s procedures for the filing of sealed documents.

more of the Debtor, the Official Committee of Talc Claimants (the “TCC”), and the AHC of Supporting Counsel. The AHC of Supporting Counsel submits this Motion to comply with the terms of the Confidentiality Order and maintain the confidentiality of each of the Confidential Documents.⁴

2. For the reasons set forth herein, the AHC of Supporting Counsel requests that the Motion be granted.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, dated September 18, 2012 (Simandle, C.J). The AHC of Supporting Counsel confirms its consent to this Court entering a final order in connection with this Motion to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. Venue of this proceeding is proper under 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).

5. The statutory predicates for the relief requested herein are sections 105(a) and 107 of the Bankruptcy Code, as supplemented by Bankruptcy Rule 9018 and Local Rule 9018-1.

6. This Motion is made in connection with the AHC of Supporting Counsel’s *Omnibus Response of Ad Hoc Committee of Supporting Counsel to Replies in Support of Motions to Dismiss*.

⁴ The AHC of Supporting Counsel will meet and confer with the Debtor and the TCC to determine whether and to what extent the Confidential Documents remain designated as confidential.

BACKGROUND

7. On April 4, 2023, the Debtor commenced this reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is a defendant in thousands of lawsuits asserting personal injuries allegedly caused by exposure to products containing talc.

8. The TCC was appointed on April 14, 2024 [Docket No. 162].

9. From April 24, 2023, through May 10, 2023, eleven parties filed motions to dismiss the above-reference case for cause (collectively, the “Motions to Dismiss”). *See* Docket Nos. 286, 335, 346, 352, 358, 379, 384, 473, 480; Adv. Docket Nos. 117, 118.

10. On May 17, 2023, the Court entered the *Order Governing Confidential Information By and Between the Official Committee of Talc Claimants and the Debtor Pursuant to D.N.J. LBR 9021-1(B)* [Docket No. 545] (the “**Confidentiality Order**”), which authorized any party that acceded to the terms of the Confidentiality Order to file a motion to seal under Local Rule 9018-1 for purposes of maintaining the confidentiality of certain information, including trade secrets and confidential, proprietary business information. Counsel to the AHC of Supporting Counsel has duly executed the acknowledgement to the Confidentiality Order.

11. On May 26, 2023, the AHC of Supporting Counsel and the Debtor each filed omnibus objections to the Motions to Dismiss. *See* Docket Nos. 613 and 614.

12. On June 22, 2023, certain parties submitted replies in support of the Motions to Dismiss. *See* Docket Nos. 854, 855, 857, 862, 863, 866, 872.

13. A trial on the Motions to Dismiss has been scheduled for June 27 through June 30, 2023.

14. The Response sets forth relevant preliminary and background matters which are incorporated herein by reference.

BASIS FOR RELIEF

15. The presumption of open access to judicial proceedings and records is codified in section 107 of the Bankruptcy Code. *See* 11 U.S.C. § 107(a). However, in limited circumstances the Bankruptcy Code empowers bankruptcy courts to limit the public’s access by sealing documents that would normally be available to the public, or otherwise prohibit the dissemination of sensitive information. *See* 11 U.S.C. § 107; *see also In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001) (emphasizing that the public’s right of access is not absolute); *Leucadia, Inc. v. Applied Extrusion Tech., Inc.*, 998 F.2d 157, 165 (3d Cir. 1993) (same).

16. Section 107 of the Bankruptcy Code provides, in relevant part, that:

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may—(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information. . . .

* * * * *

(c) (1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual’s property:

(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

(B) Other information contained in a paper described in subparagraph (A).

11 U.S.C. § 107. Furthermore, bankruptcy courts have the inherent equitable power to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. *See* 11 U.S.C. § 105(a).

17. The AHC of Supporting Counsel files this Motion to protect information contained in the Confidential Documents. Each of the Confidential Documents contains either trade secrets or confidential, proprietary business information, “information which would result in an unfair advantage to competitors by providing them information as to the commercial operations” of various parties in this case, and which applicable law and the Confidentiality Order contemplate keeping secret. *See In re Altegrity, Inc.*, 2015 Bankr. LEXIS 4479, *17 (Bankr. D. Del. Jul 16, 2015) (cleaned up); Confidentiality Order ¶ 9 (defining the term “Confidential Information” to include, *inter alia*, trade secrets and confidential, proprietary business information).

18. Based on the foregoing, the AHC of Supporting Counsel respectfully submits that sufficient cause exists for this Court to permit the Response to be filed under seal and redacted pursuant to section 107 of the Bankruptcy Code.

NO PRIOR REQUEST

19. No prior request for the relief sought in this Motion has been made to this Court or any other court.

WAIVER OF MEMORANDUM OF LAW

20. The AHC of Supporting Counsel respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to Local Rule 9013-1(a)(3) because the legal basis upon which the AHC of Supporting Counsel relies is set forth herein and this Motion does not raise any novel issues of law.

NOTICE

21. Notice of this Motion will be given to: (1) counsel to the Debtor; (2) counsel to the Official Committee of Talc Claimants; (3) counsel to the Debtor’s non-debtor affiliates, Johnson & Johnson Holdco (NA) Inc. and Johnson & Johnson; (4) the legal representative for future talc

claimants and her counsel; (5) the Office of the United States Trustee for the District of New Jersey; and (6) the other parties on the Master Service List established by the Case Management Order.

WHEREFORE, the AHC of Supporting Counsel respectfully requests that this Court enter an order, substantially in the form of the proposed order attached hereto as Exhibit A, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: June 26, 2023

COLE SCHOTZ P.C.

/s/ Michael D. Sirota

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ORDER CONCERNING REQUEST TO SEAL DOCUMENTS

The relief set forth on the following page is **ORDERED**.

On request of the Ad Hoc Committee of Supporting Counsel (the “AHC of Supporting Counsel”), by and through its counsel, to seal the following document: the redacted portions of the *Omnibus Response of Ad Hoc Committee of Supporting Counsel to Replies in Support of Motions to Dismiss*, filed on June 26, 2023, and the court having considered the request and any objection there to, it is

- ☐ ORDERED that the request is denied and the underlying document(s) shall be deleted from the court’s electronic filing system.
- ☐ ORDERED that the request is granted and the document(s) shall be sealed until the expiration of the judiciary records retention period at which time the document will be permanently deleted.